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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/160,424	09/25/1998	SCOT L. SCHNEEBELI	1215	6327

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EXAMINER

WILLETT, STEPHAN F

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.
09/160,424

Applicant(s)
Schneebeli et al.

Examiner
Stephan Willett

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2141



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED on 2/25/03 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Lack of an administrator broadens the claims and "publication" of content requires a new search and further consideration.

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See attached.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: None

Claim(s) objected to: None

Claim(s) rejected: 1-22, 24-31, 33-41, 43-46, and 48-54

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

10. ☐ Other: _____

LE HIEN LUU
PRIMARY EXAMINER

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DETAILED ACTION

Response to Amendment

1. The broad claim language used is interpreted on its face and based on this interpretation the claims have been rejected.

2. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

3. Minor changes in the words used in claims can change the meaning of the claims, thus such changes have consistently been held to be a sufficient basis to add new grounds for a rejection. For example, the present amendment which has not been entered would also be sufficient grounds to add a new rejection. Presently, content can be tested by anyone in claim 1 section b (which says "c" in the version with markings), but then section c has a negative limitation that testing can not be performed by users prior to the transfer of data to the production server. The new ground was added to further prosecution to a "speedy conclusion" and try and exemplify the breadth that reads on the present independent claims. Thus, substantially contradicts same, these words have contrary meanings that when used together are not clear. Such a strict construction of the words "substantially the same time" and MPEP 706.7(a) obfuscates the intent of these passages. Thus, Applicant's arguments can not be held as persuasive regarding patentability.

4. Applicant suggests "Beck does not disclose or suggest to first and second production servers ... a firewall", Paper No. 23, Page 9, lines 13-17. The references should not be read in a

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vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Clearly, Beck is not limited to one production server as suggested by “mirroring [to numerous serves] ... to have this material imported to the staging database [which also reads as a production server]”, col. 3, lines 28-34, thus each of the numerous businesses are production servers. Also, yellow pages with advertisements in Beck would include a firewall or security to insure users could not alter the data. Publish and rollback commands read on update data as requested by the business or software of Beck. Also, staging server is a very broad term that reads on any intermediate sever that processes the data en route to its final destination during which more final destinations may be created as necessary and at any of the staging or intermediate servers the data may be multicast to numerous users, subscribers, etc. for mass publication simultaneously. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

5. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the cited portions of the references and relevant portions of the reference or as they relate to the examiner’s arguments.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner

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should be directed to Stephan Willett whose telephone number is (703) 308-5230. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley, can be reached on (703) 308-5221. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7239.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9605.

sfw

March 4, 2003

A handwritten signature in black ink, appearing to read 'Luu Hien', with a long horizontal line extending to the right.

LE HIEN LUU
PRIMARY EXAMINER